

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ANTOINE GORUM,  
Plaintiff(s),  
vs.  
BROWN, et al.,  
Defendant(s).  
Case No. 2:16-cv-00079-APG-NJK  
REPORT AND RECOMMENDATION

Pending before the Court is the order for Plaintiff to show cause in writing, no later than August 4, 2017, why this case should not be dismissed for his failure to update his address. Docket No. 34 (citing Local Rule IA 3-1). Plaintiff has failed to file a response. For the reasons discussed more fully below, the Court hereby **RECOMMENDS** that this case be **DISMISSED** without prejudice and Defendants' motion for summary judgment (Docket No. 27) be **DENIED** as moot.

## I. BACKGROUND

On May 2, 2017, the Court Clerk's office mailed to Plaintiff a notice of a Court order. Docket No. 26 (Notice of Electronic Service). That notice was returned to the Court as undeliverable, with a notation that the mail could not be forwarded. Docket No. 33.<sup>1</sup> "A party, not the district court, bears the burden of keeping the court apprised of any changes in his mailing address." *Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988). To that end, the Court's local rules expressly require parties to

<sup>1</sup> Since that time, several other Court mailings have been returned as undeliverable. See Docket Nos. 36-38.

1 "immediately file with the court written notification of any change of mailing address." Local Rule IA  
2 3-1. That rule further warns that the failure to comply "may result in the dismissal of the action." *Id.*

3 As a result, the Court ordered Plaintiff to show cause, no later than August 4, 2017, why this case  
4 should not be dismissed. Docket No. 34. The order to show cause warned that the "**failure to respond**  
5 **to this order will result in a recommendation of dismissal without prejudice.**" *Id.* (emphasis in  
6 original). Plaintiff failed to comply with that Court order.

7 **II. ANALYSIS**

8 Plaintiff has disobeyed the Local Rules that he update his address and disobeyed the Court's  
9 order that he show cause why the case should not be dismissed. Plaintiff's failure to update his address  
10 and his disobedience of a Court order are abusive litigation practices that have interfered with the  
11 Court's ability to hear this case, delayed litigation, disrupted the Court's timely management of its  
12 docket, wasted judicial resources, and threatened the integrity of the Court's orders and the orderly  
13 administration of justice. Sanctions less drastic than dismissal are unavailable because Plaintiff has  
14 refused to comply with the order of this Court notwithstanding the Court's warning that case-dispositive  
15 sanctions may be imposed.

16 Accordingly, in light of the circumstances outlined above, the Court **RECOMMENDS** that this  
17 case be **DISMISSED** without prejudice and the pending motion for summary judgment (Docket No. 27)  
18 be **DENIED** as moot.

19 DATED: August 15, 2017

20   
21 NANCY J. KOPPE  
United States Magistrate Judge

22  
23 **NOTICE**

24 Pursuant to Local Rule IB 3-2 **any objection to this Report and Recommendation must be**  
25 **in writing and filed with the Clerk of the Court within 14 days of service of this document.** The  
26 Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to  
27 the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This  
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1 circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly  
2 address and brief the objectionable issues waives the right to appeal the District Court's  
3 order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,  
4 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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